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U.S. ANTIDUMPING AND COUNTERVAILING-DUTY POLICY

The U.S. antidumping and countervailing-duty (AD/CVD) laws penalize certain pricing and subsidy practices by foreign producers and governments. Yet domestic producers and federal, state, and local governments commonly engage in those practices without U.S. legal restraint, according to a Congressional Budget Office (CBO) study entitled *How the GATT Affects U.S. Antidumping and Countervailing-Duty Policy*. The CBO study examines U.S. AD/CVD laws and procedures, their history, their effects on the economy, and ways in which they would be affected by the new Antidumping Code and Subsidies Code.

Over time, the AD/CVD laws have developed into a general source of protection for U.S. industries from foreign competition--in effect, an alternative to the Section 201 escape clause in U.S. trade law, which is intended to give domestic producers temporary relief from increased overseas competition.

The new Antidumping Code and Subsidies Code negotiated in the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) will require modest reforms of some of the more protectionist aspects of U.S. AD/CVD laws and procedures. They will not, however, change the character of U.S. law or policy. The new codes will benefit U.S. exporters by requiring greater openness and transparency in the AD/CVD proceedings of other countries.

At one time, U.S. antidumping law approximated a prohibition on predatory pricing of imports--the practice of selling a good or service at a loss in order to monopolize a market. Antidumping law served as a complement to antitrust law, which forbade predatory pricing of domestically produced goods. Now, however, it acts more generally against sales below cost and sales at a lower price in the United States than in the exporter's home country. Countervailing-duty law provides for added duties on imports that have been subsidized by the exporting country's government.

Under today's AD/CVD laws and administrative procedures, the Department of Commerce seldom fails to find dumping or subsidization in the cases that come before it. In practice, the main hurdle for an industry seeking protection under the AD/CVD laws is demonstrating that it has been injured by the imports, not that the imports have been dumped or subsidized. The Section 201 escape clause is the mechanism in U.S. trade law that is intended to address injury. But the degree of injury that must be demonstrated in AD/CVD cases is less than that in Section 201 cases. For that and other reasons, the Section 201 escape clause is seldom used. It is usually easier for industries to obtain protection under the antidumping and countervailing-duty laws.

Questions about the study should be directed to Bruce Arnold of CBO's Natural Resources and Commerce Division at 202-226-2940. The Office of Intergovernmental Relations is CBO's Congressional liaison office and can be reached at 226-2600. For additional copies of the report, please call CBO's Publications Office at 226-2809.



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